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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,805	09/05/2003	Douglas Thai	PAT-1456CON	7122

7590

05/25/2005

Raymond Sun
12420 Woodhall Way
Tustin, CA 92782

EXAMINER

WILLIAMS, JAMILA O

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,805

Applicant(s)

THAI, DOUGLAS

Examiner

Jamila O Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 11-29-2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 31-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-19 of copending Application No. 10/693,157. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims recited in 10/655,805 are similar in subject matter but broader in scope than the claims recited in the 10/693,157.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 31-34 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of U.S. Patent No. 6,620,016. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims recited in the present application are of similar subject matter but broader in scope than the claims of the patent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31-32 are rejected under 35 U.S.C. 102(b) as being anticipated by '890 to DeMars (cited on ids). DeMars discloses a bubble generating assembly comprising a housing (12), a container (110), a bubble generating device (106), tubing (98) that couples the interior of the container with the bubble generating device, a pump system for drawing bubble solution from the container and deliver solution to the bubble generating device, the pump including a trigger (18), pressure roller (94), guide wall (wall of peristaltic pump chamber 96) with tubing (98) positioned between the pressure roller and guide wall; wherein pressure is not applied to the tubing by the pressure roller when the trigger is not actuated, wherein pressure is applied to the tubing by the pressure roller when the trigger is actuated (col. 5 lines 15-21 of the spec).

Applicant's arguments filed 11-29-2004 have been fully considered but they are not persuasive.

Column 5 line 17 of the spec to DeMars states that a portion of the tube 98 is positioned against the wall of 96 but does not state that there is any pressure or pinching prior to the rotation of the gears (column 5 line 19-20). Additionally, in column 6, starting in line 24 (where the operation of the device is being disclosed) the

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movement of the trigger starts the process of electrical connection for the motor, fan operation and the rollers 94 to move against the tube (or pinch the tube). This shows that prior to the movement of the trigger there is no pressure on the tube because if that were the case, there would be no "movement" necessary. Therefore this art rejection is maintained.

Conclusion

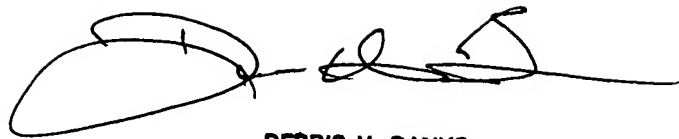
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila O Williams whose telephone number is 703-305-3312. The examiner can normally be reached on 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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jw

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a horizontal line extending to the right.

DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700